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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,116	08/25/2000	Takayuki Nabeshima	48864-028	5558

7590 05/03/2004  
McDermott Will & Emery  
600 13th Street NW  
Washington, DC 20005-3096

EXAMINER

NGUYEN, MADELEINE ANH VINH

ART UNIT	PAPER NUMBER
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2626

DATE MAILED: 05/03/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/648,116

Applicant(s)

NABESHIMA ET AL.

Examiner

Madeleine AV Nguyen

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1--17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected: \_\_\_\_\_
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1- are rejected under 35 U.S.C. 103(a) as being unpatentable over Beretta (US Patent No. 5,416,890).

Concerning claims 1, Beretta discloses an image processing apparatus (Fig.1) for supplying received image data to an output device (30) to reproduce the image data comprising a converter for converting the received image data into image data of a standard color space (XYZ or Lab); a decision portion (22) for deciding whether the image data converted by the converter are out of range of the color reproduction in the output device; and a controller (10) for controlling the output device to perform a calibration of making the color reproduction range of the output device in a proper range when the decision portion has decided that the image data are out of the reference range (Figs.17, 19, 33, 35, 37; col. 35, lines 37-65; col. 52, line 51 – col. 54, line 41).

Beretta does not directly teach that the controller performs a calibration of making the color reproduction range of the output device close to the reference range when the decision portion has decided that the image data are out of the reference range. However, Beretta teaches an out-of-range checking procedure (box 600) where the color values are retrieved from the screen coordinates and the XYZ tristimulus values of the color are computed and evaluated to

Art Unit: 2626

determine if the color edited by the user represent a physically possible color. In box 606, the XYZ tristimulus values are tested, and if any of the X, Y, or Z values is negative, the color is not physically possible, and the user receives a message of the out-of-range color in box 611 (col. 53, line 44 – col. 54, line 25). It would have been obvious to one skilled in the art at the time the invention was made to consider the physically possible color range is the reference range of the color reproduction in the output device since Beretta teaches that if the color value is not physically possible, the color is out-of-range and the controller has to bring the color value back to a physically possible color range or back to in-range color.

Concerning claims 2-6, Beretta further teaches a display (30) for displaying a message asking whether the calibration is necessary or not (662, Fig.37, 611, Fig.35); the output device performs gamma correction of the input image data (218, Fig.20; col. 14, lines 7-9); in the calibration, the output device reproduces a predetermined test pattern (color palette) and the controller calibrates the color reproduction range of the output device so that the reproduced test pattern becomes a predetermined target value (Figs.11, 12, 17, 27, 33, 35, 37); the output device reproduces the image on a piece of paper (from a printer); in the calibration the output device reproduces a predetermined test pattern on a piece of paper, and the controller calibrates the color reproduction range of the output device so that the image data obtained when an image reader reads the test pattern become a predetermined target value (Abstract; col. 21, line 45 – col. 22, line 44).

Claims 7-12 are method claims of apparatus claims 1-6. Claims 7-12 are rejected for the same rationales set forth for claims 1-6.

Art Unit: 2626

Concerning claims 13-17, Beretta discloses an image processing system as discussed in claims 1-6 above. Beretta further teaches a gamma correction portion for performing gamma correction of the received image data (218, Fig.20; col. 14, lines 7-9) wherein the controller calibrates the characteristics of the gamma correction portion so as to make the color reproduction range of the output device to be in-range (Table 5 in col. 31, lines 43-45; col. 39, lines 59-66).

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Holub et al (US Patent No. 6,459,425) discloses a system for automatic color calibration.

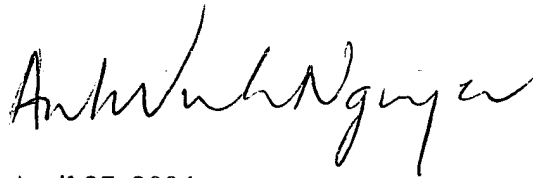
b. Holt et al (US Patent No. 5,528,261) teaches an operating system for supporting color processing on a global scale.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 703 305-4860. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams can be reached on 703 305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



April 27, 2004

Madeleine AV Nguyen  
Primary Examiner  
Art Unit 2626